

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: PATRICK MEADOWCROFT & LOUISE MEADOWCROFT

(Case No. 12304)

A hearing was held after due notice on May 20, 2019. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman.

Nature of the Proceedings

This is an application for variances from the front yard and corner front yard setback requirements for existing and proposed structures.

Findings of Fact

The Board found that the Applicants are requesting a variance of 14.4 feet from the forty (40) feet front yard setback requirement from Lighthouse Road for a proposed addition and a variance of 7.5 feet from the fifteen (15) feet corner front yard setback requirement from Jefferson Avenue for existing steps. This application pertains to certain real property located on the southeast corner of Lighthouse Road and Jefferson Avenue in the Edgewater Acres subdivision (911 Address: 13382 Jefferson Avenue, Selbyville); said property being identified as Sussex County Tax Map Parcel Number 5-33-20.19-69.01.

1. The Board was given copies of the Application, a survey of the Property dated August 6, 2018, a building permit application, an aerial photograph of the Property, and a portion of the tax map of the area.
2. The Board found that the Office of Planning & Zoning received no correspondence in support of or in opposition to the Application.
3. The Board found that Doug Tenly was sworn in to give testimony about the Application. Mr. Tenly submitted exhibits to the Board to review.
4. The Board found that Mr. Tenly testified that the Property is unique because it is a shallow lot and there is no street parking allowed in the subdivision so off street parking is needed.
5. The Board found that Mr. Tenly testified that the addition will be used for a garage with a deck on top. The addition will measure 16 feet by 20 feet.
6. The Board found that Mr. Tenly testified that the addition will improve the house.
7. The Board found that Mr. Tenly testified that the exceptional practical difficulty was not created by the Applicants.
8. The Board found that Mr. Tenly testified that there are new houses in the neighborhood which are 32 feet from the paving of Route 54.
9. The Board found that Mr. Tenly testified that the garage will measure 12 feet tall.
10. The Board found that Mr. Tenly testified that the Property cannot otherwise be developed for a garage and driveway as this is the only area with enough space for a garage.
11. The Board found that Mr. Tenly testified that the lot size was not created by the Applicants and they have not made any changes thus far.
12. The Board found that Mr. Tenly testified that the variances will not alter the essential character of the neighborhood but rather enhance the area and add some character to a dwelling that is currently just a rectangular shape.
13. The Board found that Mr. Tenly testified that the variances requested are the minimum variances necessary to enable the Applicants to build a garage measuring 16 feet by 20 feet.

14. The Board found that Mr. Tenly testified that the HVAC system complies with the setback requirements.
15. The Board found that Mr. Tenly testified that the steps existed on the Property prior to the Applicants' purchase of the lot and there have been no complaints about the steps.
16. The Board found that no parties appeared in support of or in opposition to the Application.
17. Based on the findings above and the testimony and evidence presented at the public hearing and the public record, which the Board found credible, persuasive, and un rebutted, the Board determined that the application met the standards for granting a variance. The findings below further support the Board's decision to approve the Application.
 - a. The Property is unique as it is a small and narrow lot. The lot is only 50 feet wide and consists of only 6,062 square feet. The Property is also unique because it is a corner lot. As such, the building envelope is exceptionally limited. The Property is also unique because off-street parking is needed due to the lack of street parking in the neighborhood. These unique physical conditions have created an exceptional practical difficulty for the Applicants who seek to construct a garage and to retain a set of steps on the Property.
 - b. Due to the uniqueness of the Property, the Property cannot be developed in strict conformity with the Sussex County Zoning Code. The Applicants seek to construct a garage and to retain a set of steps but are unable to do so without violating the Sussex County Zoning Code. The Board is convinced that the variances are necessary to enable the reasonable use of the Property as the variances will allow a reasonably sized garage to be placed on the Property and for a reasonably sized set of steps to remain on the lot. The Board is convinced that the shape and location of these structures are also reasonable, which is confirmed when reviewing the survey provided by the Applicants. The location of the landing and steps provides the Applicants with reasonable access to the home and the garage will enable the Applicants to park their vehicle and provide reasonable storage.
 - c. The exceptional practical difficulty was not created by the Applicants. There was no evidence that the Applicants created the unique size of the Property or that the Applicants created parking problems in the neighborhood. These unique conditions have created an unusually limited building envelope and the building envelope was further limited by the corner setback requirements. These conditions have created the exceptional practical difficulty for the Applicants who seek to construct a garage and to retain a set of steps on the lot.
 - d. The variances will not alter the essential character of the neighborhood nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. The Board is convinced that the structures will have no effect on the character of the neighborhood. No evidence was presented that the variances would somehow alter the essential character of the neighborhood or be detrimental to the public welfare. The lack of evidence is telling with regard to the steps because the steps have been on the Property for years without complaint. Meanwhile, the garage will be located a similar distance from Jefferson Avenue as other structures in the neighborhood. The Board notes that the survey indicates a significant gap between the edge of paving of Jefferson Avenue and the front property line. As such, the encroachment into the setback area will likely not be as noticeable as it would if the edge of paving matched the property line.

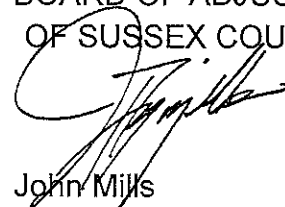
- e. The variances sought are the minimum variances necessary to afford relief and the variances requested represent the least modifications possible of the regulation at issue. The Applicants have demonstrated that the variances sought will allow the Applicants to construct a garage and to retain a set of steps on the Property. These structures are small enough to be reasonably used yet still meet their intended purpose.

The Board granted the variance application finding that it met the standards for granting a variance.

Decision of the Board

Upon motion duly made and seconded, the variance application was approved. The Board Members in favor of the motion to approve were Mr. Dale Callaway, Ms. Ellen Magee, Mr. John Mills, Mr. John Williamson, and Mr. Brent Workman. No Board Member voted against the motion to approve the variance application.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



John Mills
Chairman

If the use is not established within two (2) years from the date below the application becomes void.

Date June 18, 2009.